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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,811	01/25/2002	John Hulls	033357-007	5459

7590

04/22/2004

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EXAMINER
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HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/057,811

**Applicant(s)**

HULLS ET AL.

**Examiner**

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,9-12,17-20,25-27 and 29-36 is/are rejected.
- 7) ☒ Claim(s) 5-8,13-16,21-24 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,657,805 to MARGO. MARGO discloses the use of a structural reinforcement system for reinforcing an opening (12) in a wall (14) of a building including a frame (16) having two vertically spaced members (22-24) and at least one horizontal member (20) connected thereto; at least one channel member (32) connected to the vertical frame member (22,24) wherein the perpendicular legs of the L-shaped channel member (32) forms a groove for slidably receiving at least one groove engagement device (48) disposed at the ends of at least one panel member (28) that forms the movable panel member (26) positioned in the opening (12); and at least one panel restraining device (46) wherein the movable panels (26) and channels (40) are in communication such that the movable panel (26) provides a continuous load path when placed between a non-shear transmission position, Figure 6 and a shear transmission position, Figure 6A, column 2, lines 34-36 and column 5, lines 5-22. Regarding claim 2, the system of MARGO also includes an interlocking means (L) for releasably securing the movable panels (26), see the marked attachment from the previous Official Action. In reference to claim 3, in the system of MARGO, there is a second restraining device (46) disposed at an opposite end of the movable panel (26). Regarding claim 4, MARGO, column 2, lines 4-7, indicates that his system can be automated.

Claims 9-12 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,657,805 to MARGO. MARGO discloses the use of a structural reinforcement system for reinforcing an opening (12) in a wall (14) of a building including a frame (16) having two vertically spaced members (22-24) and at least one horizontal member (20) connected thereto; at least one channel member (32) connected to the vertical frame member (22,24) and a second channel member (34) coupled to the first channel member (32) to form a groove/channel (40) therebetween for slidably receiving at least one groove engagement device (48) disposed at the ends of at least one panel member (28) that forms the movable panel member (26) positioned in the opening (12); and at least one panel restraining device (46) wherein the movable panels (26) and channels (40) are in communication such that the movable panel (26) provides a continuous load path when placed between a non-shear transmission position, Figure 6 and a shear transmission position, Figure 6A, column 2, lines 34-36 and column 5, lines 5-22. Regarding claim 10, the system of MARGO also includes an interlocking means (L) for releasably securing the movable panels (26), see the marked attachment from the previous Official Action. In reference to claim 11, there is a second restraining device (46) disposed at an opposite end of the movable panel (26). Regarding claim 12, MARGO, column 2, lines 4-7, indicates that his system can be automated.

Claims 17-20,25,27 and 29-36 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,657,805 to MARGO. MARGO discloses the use of a structural reinforcement system for reinforcing an opening (12) in a wall (14) of a

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building including a frame (16) having two vertically spaced members (22-24) and at least one horizontal member (20) connected thereto; at least one channel member (32,52,62) and a second channel member (34,54,64) coupled to the first channel member (32,52,62) to form a groove/channel (40) therebetween for slidably receiving at least one groove engagement device (48) disposed at the ends of at least one panel member (28) that forms the movable panel member (26) positioned in the opening (12); and at least one panel restraining device (46). MARGO further includes a reinforcement frame (50,60) connected to the opening (12) such that the movable panels (26) and grooves/channels (40) are in communication such that the movable panel (26) provides a continuous load path when placed between a non-shear transmission position, Figure 6 and a shear transmission position, Figure 6A, column 2, lines 34-36 and column 5, lines 5-22. Regarding claim 18, the system of MARGO also includes an interlocking means (L) for releasably securing the movable panels (26), see the marked attachment from the previous Official Action. In reference to claim 19, there is a second restraining device (46) disposed at an opposite end of the movable panel (26). Regarding claim 20, MARGO, column 2, lines 4-7, indicates that his system can be automated. In reference to claim 27, the frame reinforcing device (50,60) includes an upper portion (colored red in the marked attachment from the previous Official Action) and a lower portion (colored blue in the marked attachment from the previous Official Action). Regarding claims 25,29,30,31 and 32, the upper portion (colored red in the marked attachment from the previous Official Action) of the reinforcing device

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(50,60) is disposed at the side edges and within the opening (12) across the horizontal member (20) and is inherently known for reducing stress at the applied location. In reference to claims 26 and 33, the lower portion (colored blue in the marked attachment from the previous Official Action) of the reinforcing device (50,60) is a disposed lower section in the opening (12) adjacent the upper portion (colored red in the marked attachment from the previous Official Action) of the frame reinforcement (50,60). Regarding claim 34, the reinforcing device (50,60) further includes an anchoring device (56,66). In reference to claims 35 and 36, the first (32,52,62) and second (34,54,64) channels are connected to the frame reinforcing device (50,60).

#### ***Allowable Subject Matter***

Claims 5-8,13-16,21-24 and 28 remain objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a system that resists "in-plane" shear) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. The claims merely call for a system including a panel movable between a non-shear and a shear transmission position. The claims never identify resisting "in-plane" shear.

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In response to the applicant's argument that due to the fact that elements (48) and (48b) of MARGO never make contact there is no shear, this is not true. However, the system as shown in figure 6 is a non-shear position and Figure 6A is a shear position wherein a force is applied and elements (48) and (48b) resist the transmission of the force being applied to the system.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



YMH  
04/19/04

Carl D. Friedman  
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